

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1673-MWD-E **TCEQ ID:** RN101614030 **CASE NO.:** 34814

RESPONDENT NAME: Orange County Water Control and Improvement District No. 2

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: West Orange Plant, located on the north side of Western Avenue, west of Adams Bayou, and from 1,000 feet to 2,400 feet east of the intersection of Western Avenue and Dayton Street, West Orange, Orange County

TYPE OF OPERATION: Domestic wastewater treatment system

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 7, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Andrew Hunt, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Ed Smith, President, Orange County Water Control and Improvement District No. 2, P.O. Box 278, Orange, Texas 77631

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 17, 2007</p> <p>Date of NOV/NOE Relating to this Case: October 8, 2007 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>Failed to comply with the permitted effluent limitations for biochemical oxygen demand, total chlorine, total copper, and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010240001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].</p>	<p>Total Assessed: \$14,200</p> <p>Total Deferred: \$2,840 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$11,360</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES No. WQ0010240001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0010240001



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned	15-Oct-2007	Screening	18-Oct-2007	EPA Due	5-Dec-2007
	PCW	18-Oct-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Orange County Water Control and Improvement District No. 2				
Reg. Ent. Ref. No.	RN101614030				
Facility/Site Region	10-Beaumont	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No. 34814				No. of Violations 1	
Docket No. 2007-1673-MWD-E				Order Type 1660	
Media Program(s) Water Quality				Enf. Coordinator Andrew Hunt	
Multi-Media				EC's Team Enforcement Team 1	
Admin. Penalty \$		Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$10,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **42%** Enhancement **Subtotals 2, 3, & 7** \$4,200

Notes An enhancement is recommended due to seven self-reported effluent quality violations, one written NOV with same or similar violations, and one NOV with unrelated violations.

Culpability **No** **0%** Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **0%** Reduction **Subtotal 5** \$0

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$583
Approx. Cost of Compliance \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$14,200

OTHER FACTORS AS JUSTICE MAY REQUIRE **0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$14,200

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$14,200

DEFERRAL **20%** Reduction **Adjustment** -\$2,840

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$11,360

Screening Date 18-Oct-2007

Docket No. 2007-1673-MWD-E

PCW

Respondent Orange County Water Control and Improvement District I

Policy Revision 2 (September 2002)

Case ID No. 34814

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101614030

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	8	40%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission.	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 42%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended due to seven self-reported effluent quality violations, one written NOV with same or similar violations, and one NOV with unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 42%

Screening Date 18-Oct-2007 Respondent Orange County Water Control and Improvement District No. 2 Case ID No. 34814 Reg. Ent. Reference No. RN101614030 Media [Statute] Water Quality Enf. Coordinator Andrew Hunt Violation Number 1	Docket No. 2007-1673-MWD-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision September 19, 2007</i>																									
Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010240001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2																										
Violation Description Failed to comply with the permitted effluent limitations, as shown in the attached violation table.																										
Base Penalty \$10,000																										
>> Environmental, Property and Human Health Matrix																										
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 30%;"></th> </tr> </thead> <tbody> <tr> <td>Release</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="4"></td> <td> Percent 25% </td> </tr> </tbody> </table>		Major	Moderate	Minor		Release					Actual			x		Potential									Percent 25%
	Major	Moderate	Minor																							
Release																										
Actual			x																							
Potential																										
				Percent 25%																						
>> Programmatic Matrix																										
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Falsification																										
				Percent 0%																						
Matrix Notes	<div style="border: 1px solid black; padding: 5px;"> A simplified model was used to evaluate total copper daily average concentration and to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids, biochemical oxygen demand, and chlorine were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors. </div>																									
Adjustment \$7,500																										
\$2,500																										
Violation Events																										
<table style="width: 100%;"> <tr> <td style="width: 40%;"> Number of Violation Events 4 </td> <td style="width: 20%; text-align: center;">123</td> <td style="width: 40%;"> Number of violation days </td> </tr> </table>		Number of Violation Events 4	123	Number of violation days																						
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mark only one with an x	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td style="text-align: center;">x</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </tbody> </table>	daily		monthly		quarterly	x	semiannual		annual		single event		Violation Base Penalty \$10,000												
daily																										
monthly																										
quarterly	x																									
semiannual																										
annual																										
single event																										
Four quarterly events are recommended.																										
Economic Benefit (EB) for this violation		Statutory Limit Test																								
Estimated EB Amount \$583		Violation Final Penalty Total \$14,200																								
		This violation Final Assessed Penalty (adjusted for limits) \$14,200																								

Economic Benefit Worksheet

Respondent Orange County Water Control and Improvement District No. 2
 Case ID No. 34814
 Reg. Ent. Reference No. RN101614030
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$5,000	1-Aug-2006	31-Mar-2008	1.7	\$28	\$555	\$583
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to evaluate causes of effluent excursions and to rehabilitate the Facility. Date required is the first date of noncompliance. The final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$583

EFFLUENT VIOLATION TABLE

Orange County Water Control and Improvement District No. 2
 TPDES Permit No. WQ0010240001
 Docket No. 2007-1673-MWD-E

Months	BOD 5-Day max. conc. Limit = 25 mg/L	Total Chlorine max. conc. Limit = 0.01 mg/L	Total Copper Daily max. conc. Limit = 0.018 mg/L	Total Copper Daily ave. conc. Limit = 0.0087 mg/L	Total Suspended Solids Daily ave. loading Limit = 153 lbs/day	Total Suspended Solids Daily max. conc. Limit = 40 mg/L	Total Suspended Solids Daily ave. conc. Limit = 15 mg/L
8/31/2006	c	c	0.0284	0.0104	c	c	c
1/31/2007	c	c	c	c	297	c	21
4/30/2007	27	c	c	c	231	74	20
6/30/2007	c	0.2	c	c	c	c	c

avg. = average

c = compliant

conc. = concentration

BOD = biochemical oxygen demand

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per Liter

Compliance History

Customer/Respondent/Owner-Operator: CN600738751 Orange County Water Control and Improvement District No. 2 Classification: AVERAGE Rating: 0.52

Regulated Entity: RN101614030 WEST ORANGE PLANT Classification: AVERAGE Site Rating: 0.52

ID Number(s): WASTEWATER PERMIT WQ0010240001
WASTEWATER PERMIT TPDES0054810
WASTEWATER PERMIT TX0054810
WASTEWATER LICENSING LICENSE WQ0010240001

Location: Located on the north side of Western Avenue, west of Adams Bayou, and from 1000 feet to 2400 feet east of the intersection of Western Avenue and Dayton Street in West Orange, Orange County, Texas Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: October 16, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 16, 2002 to October 16, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrew Hunt Phone: 512-239-1203

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 10/21/2002 (187129)
- 2 10/21/2002 (187128)
- 3 11/22/2002 (187133)
- 4 12/19/2002 (187137)
- 5 01/21/2003 (187141)
- 6 02/21/2003 (187099)
- 7 03/19/2003 (187102)
- 8 04/24/2003 (187107)
- 9 05/22/2003 (187111)
- 10 06/23/2003 (187115)
- 11 07/22/2003 (187119)
- 12 08/26/2003 (307703)
- 13 09/23/2003 (307705)
- 14 10/17/2003 (307707)
- 15 11/21/2003 (307708)
- 16 12/10/2003 (307709)
- 17 01/26/2004 (307710)
- 18 02/06/2004 (257429)

19	02/23/2004	(307691)
20	03/22/2004	(307694)
21	04/16/2004	(307695)
22	05/21/2004	(307697)
23	06/21/2004	(307699)
24	06/21/2004	(307701)
25	08/24/2004	(356962)
26	09/21/2004	(356963)
27	10/05/2004	(336317)
28	10/20/2004	(356964)
29	11/23/2004	(356965)
30	12/06/2004	(341430)
31	12/20/2004	(384596)
32	01/24/2005	(384597)
33	02/22/2005	(384594)
34	03/22/2005	(384595)
35	04/20/2005	(422534)
36	05/12/2005	(379866)
37	05/19/2005	(422535)
38	06/20/2005	(422536)
39	07/22/2005	(443473)
40	08/16/2005	(443474)
41	09/20/2005	(443475)
42	11/18/2005	(473355)
43	12/20/2005	(473356)
44	01/27/2006	(473357)
45	02/22/2006	(473353)
46	03/22/2006	(473354)
47	04/21/2006	(501512)
48	05/22/2006	(501513)
49	07/18/2006	(523761)
50	08/21/2006	(523762)
51	09/18/2006	(548761)
52	10/16/2006	(548762)
53	11/27/2006	(548763)
54	12/21/2006	(548764)
55	01/22/2007	(548765)
56	02/16/2007	(582017)
57	03/22/2007	(582018)
58	04/20/2007	(582019)
59	05/21/2007	(582020)
60	06/23/2007	(582021)
61	10/08/2007	(594831)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date	10/31/2002	(187133)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	12/31/2002	(187141)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	09/30/2003	(307707)		
Self Report?	YES		Classificati	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date	02/06/2004	(257429)		
Self Report?	NO		Classificati	Minor
Rqmt Prov:	PERMIT WQ 10210-001			
Description:	The permittee was not properly preserving effluent samples by failing to preserve			

metals and conventional samples as required by 40 Code of Federal Regulations, Part 136, Table II.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 10240-001

Description: On 12/18/2003, the 7 and 10 pH buffers were expired. The permittee did not possess secondary standards to check the calibration accuracy of the total chlorine residual meter.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 10240-001

Description: On 12/09/2003, the audible alarm at the Smith St. LS was inoperable.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 10240-001

Description: The Crockett St. Lift Station is not equipped with an audio-visual alarm system.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 10240-001

Description: The Albany St. LS, Flint St. LS, Crockett St. LS, and South St. LS all contained a heavy grease loading in the wet wells. Grease accumulation in the wet wells is a repeat violation from the 2/2001 CCI. The Albany St. LS, Flint St. LS, Crockett St. LS, and South St. LS all contained a heavy grease loading.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 10240-001

Description: The final clarifiers were both supporting a scum layer on their surface. It was noted that the surface skimmer was working properly in removal of the scum, but the scum was persistent and rapid forming.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 10240-001

Description: On 12/08/2003, the safety chains at the ends of the aerated digester walkway were missing.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT WQ 10240-001

Description: Since the 02/2001 CCI, the permittee reported five events of two hour peak flow excursions, occurring on 8/15/2002, 10/28/2002, 10/29/2002, 12/4/2002. These were caused when periods of high rainfall filled the flow equalization basin filled, forcing high flows back to the plant, causing the peak flow excursions.

Date: 12/06/2004 (341430)

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter C 319.302[G]

Description: Failure to make notification to local officials and local media as required.

Date: 08/31/2006 (548761)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007 (582017)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (582020)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2007 (582021)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ORANGE COUNTY WATER
CONTROL AND IMPROVEMENT
DISTRICT NO. 2
RN101614030**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1673-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Orange County Water Control and Improvement District No. 2 ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment system located on the north side of Western Avenue, west of Adams Bayou, and from 1,000 feet to 2,400 feet east of the intersection of Western Avenue and Dayton Street in West Orange, Orange County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 13, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fourteen Thousand Two Hundred Dollars (\$14,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eleven Thousand Three Hundred Sixty Dollars (\$11,360) of the administrative penalty and Two Thousand Eight Hundred Forty Dollars (\$2,840) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with the permitted effluent limitations, in violation of TEX. WATERCODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010240001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, as documented during a record review conducted on September 17, 2007, and shown in the violation table below:

EFFLUENT VIOLATION TABLE							
Months	BOD 5- Day max. conc. Limit = 10 mg/L	Total Chlorine max conc. Limit = 0.01 mg/L	Total Copper Daily max conc. Limit = 0.018 mg/L	Total Copper Daily ave. conc. Limit = 0.0087 mg/L	Total Suspended Solids Daily ave. loading Limit = 153 lbs/day	Total Suspended Solids Daily max. conc. Limit = 40 mg/L	Total Suspended Solids Daily ave. conc. Limit = 15 mg/L
8/31/2006	c	c	0.0284	0.0104	c	c	c
1/31/2007	c	c	c	c	297	c	21
4/30/2007	27	c	c	c	231	74	20
6/30/2007	c	0.2	c	c	c	c	c

avg. = average

c = compliant

conc. = concentration

BOD = biochemical oxygen demand

lbs/day = pounds per day

max. = maximum

mg/L = milligrams per Liter

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Orange County Water Control and Improvement District No. 2, Docket No. 2007-1673-MWD-E" to:

Financial Administration Division, Revenues Section
 Attention: Cashier's Office, MC 214
 Texas Commission on Environmental Quality
 P.O. Box 13088
 Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES No. WQ0010240001. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szolnier

For the Executive Director

3/10/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Ed Smith

Signature

1-15-08

Date

Ed Smith

Name (Printed or typed)
Authorized Representative of
Orange County Water Control and Improvement District No. 2

President

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

